



0360

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Brines et al.

Application No.: 09/547,220

Group Art Unit: 1636

Filed: April 11, 2000

Examiner: To be assigned

For: MODULATION OF EXCITABLE TISSUE  
FUNCTION BY PERIPHERALLY  
ADMINISTERED ERYTHROPOIETIN

Attorney Docket No.: 10165-006-999

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF  
NONPROVISIONAL APPLICATION AND  
REQUEST FOR CORRECTED FILING RECEIPT**

Assistant Commissioner for Patents  
Box Missing Parts  
Washington, D.C. 20231

Sir:

In response to the Notice to File Missing Parts Of Application – Filing Date Granted, dated June 16, 2000 ("Notice"), Applicants respectfully point out that the requested executed oath and declaration is no longer due. On June 12, 2000, Applicants filed in the United States Patent and Trademark Office ("PTO"), by Express Mail, the following documents: Transmittal of Declaration and Power of Attorney and Request for Refund, each bearing Express Mail No. EL 501 632 634 US, accompanied by a facsimile of the executed Declaration and Power of Attorney, and a facsimile of a Verified Statement claiming Small Entity Status. A copy of each of these documents, as well as a copy of the postcard receipt evidencing receipt of these documents by the PTO, is attached hereto as Exhibit A. Also enclosed as part of Exhibit A is a copy of the Express Mail Receipt for label No. EL 501 632 634 US, bearing a "date-in" of June 12, 2000. Accordingly, these documents are believed to fulfill the requirements of the Notice. A copy of the Notice is enclosed.

Applicants further request that the Patent Office correct the Filing Receipt for the above-identified application. In particular, the priority data is incorrect on the Filing Receipt. The application claims priority under 35 U.S.C. § 119(e) only to application no. 60/129,131 filed



April 13, 1999, and not to application no. 60/118,030 filed on February 1, 1999, as appears on the filing receipt.

Enclosed herewith is a copy of the incorrect Filing Receipt with the incorrect priority information deleted in red ink. To support their position, Applicant also encloses herewith, as Exhibit B, copies of page 1 of the application, and the fee transmittal sheet, as filed on April 13, 1999, indicating the claimed priority to application no. 60/129,131.

Applicants respectfully request that a corrected Filing Receipt be issued.

Since the surcharge for filing the Declaration and Power of Attorney of \$65.00 for a small entity was authorized on June 12, 2000, no fee is now believed to be due. However, in the event that the PTO should determine that a fee is required please charge the required fee to Pennie & Edmonds-LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date: November 29, 2000

Laura A. Coruzzi 30,742  
Laura A. Coruzzi (Reg. No.)  
By: Eileen E. Falvey 46,097  
Eileen E. Falvey (Reg. No.)

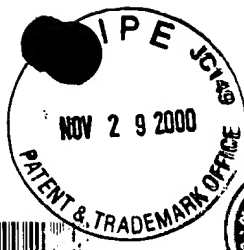
**PENNIE & EDMONDS LLP**  
1155 Avenue of the Americas  
New York, New York 10036-2711  
(212) 790-9090

Enclosures

## FORMALITIES LETTER



\*OC000000005181379\*

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/547,220	6/11/2000	Michael Brines	10165-006-999

20583  
PENNIE AND EDMONDS  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 100362711

Date Mailed: 06/16/2000

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees noted below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the petition fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is undeclared.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

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A copy of this notice **MUST** be returned with the reply.

Customer Service Center

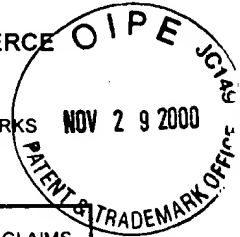
Initial Patent Examination Division (7-1202)

PATENT COPY TO BE RETURNED WITH RESPONSE

## FILING RECEIPT



\*OC000000005181378\*

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeAddress: ASSISTANT SECRETARY AND  
COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/547,220 ✓	04/11/2000 ✓	1636 ✓	1412	10165-006-999 ✓	17	27	5

20583  
 PENNIE AND EDMONDS  
 1155 AVENUE OF THE AMERICAS  
 NEW YORK, NY 100362711

Date Mailed: 06/16/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

## Applicant(s)

Michael Brines, Woodbridge, CT ;  
 Anthony Cerami, New York, NY ;  
 Carla Cerami, Sleepy Hollow, NY ;

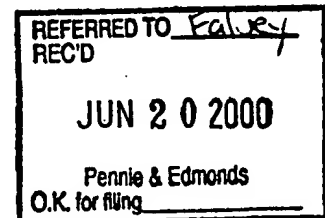
✓

## Continuing Data as Claimed by Applicant

THIS APPLN CLAIMS BENEFIT OF 60/129,131 04/13/1999 ✓  
~~WHICH CLAIMS BENEFIT OF 60/118,030 02/01/1999~~

## Foreign Applications

If Required, Foreign Filing License Granted 06/15/2000



## Title

Modulation of excitable tissue function by peripherally administered erythropoietin ✓

## Preliminary Class

435

Data entry by : RIVERS, ANNETTE

Team : OIPE

Date: 06/16/2000

